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EXAMINER

JONES, HEATHER RAE

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/081,973	<b>Applicant(s)</b> SHIGETOMI ET AL.	
	<b>Examiner</b> HEATHER JONES	<b>Art Unit</b> 2481	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2011.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 5) ☒ Claim(s) 2-5,8-15,17-21,23-29 and 32 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 2-5,8-15,17-21,23-29 and 32 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☒ The drawing(s) filed on 21 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, filed August 4, 2011, with respect to the rejection(s) of claim(s) 15, 16, 21, 22, 29, and 30 under *Suito et al.* (U.S. Patent 6,285,818) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of *Harville* (U.S. Patent 6,993,245).

### **Claim Rejections - 35 USC § 101**

2. The apparatus claims 2-5 and 8-15 are considered statutory because the apparatus is not disclosed in the specification to be implemented solely with software and because they invoke 35 U.S.C. 112 sixth paragraph. The method claims 17-21, 23-29 and 32 are considered to be statutory because the method is tied to an apparatus, wherein the apparatus is the display.

### ***35 USC § 112***

3. Claims 8 and 17 invoke 35 U.S.C. 112 sixth paragraph by meeting the limitations set forth in the three prong test specified in MPEP 2181. Regarding claims 8 and 17, the storing means for/step for storing the broadcast is considered to read on the storage unit (13) in Fig. 2; the commercial detecting means for/step for detecting commercials is considered to read on the commercial detector (17) in Fig. 2; the reproducing means for/step for reproducing the broadcast information is considered to read on the

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reproduction unit (16) in Fig. 2; the inputting means for/step for is considered to read on the input unit (19) in Fig. 2; and the controlling means for controlling the other means is considered to read on the controller (18) of Fig. 2.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8, 3, 4, 9-13, 15, 17, 19, 21, 23-27, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al. (U.S. Patent 7,013,477) in view of Daniels (U.S. Patent 6,973,669) in view of Baji et al. (U.S. Patent 5,027,400) in view of Boylan, III et al. (U.S. Patent Application Publication 2002/0166120) in view of Dustin et al. (U.S. Patent 6,496,857) in view of Harville (U.S. Patent 6,993,245).

Regarding claim 8, Nakamura et al. discloses **an information reproducing apparatus comprising: a receiver for receiving broadcast information and selecting a signal therefrom that includes commercial broadcast information having a supplied sequence** (Fig. 2; col. 12, lines 17-35); **a storing means (26) for storing a sequentially supplied series of the broadcast information** (col. 12, lines 17-35; col. 14, lines 12-20); **a commercial detecting means for detecting the commercial broadcast information from the received broadcast information based on predetermined identification**

**information contained in the received broadcast information** (col. 12, lines 17-35 – the CM start unit (23) corresponds to a CM detecting unit); **a reproducing means for reproducing broadcast information stored in the storing means on a display device (15)** (col. 14, lines 21-25); **and an inputting means for inputting a commercial designation signal for designating the commercial broadcast information to be reproduced at the reproducing means** (Fig. 5; col. 14, line 25 – col. 15, line 8). However, Nakamura fails to disclose **a controlling means for sequentially reading the series of broadcast information from the storing means and making the reproducing means reproduce the same in accordance with the supplied sequence, generating image information corresponding to the detected commercial broadcast information and combining the same with the reproduced image of the series of broadcast information, and making the reproducing means reproduce the combined image information, and, when the commercial designation signal is input, reading the commercial broadcast information designated by the related commercial designation signal from the storing means and making the reproduction means reproduce all the commercial broadcast information in the second sequence as supplied in the broadcast information, and, in the following reproduction of the series of broadcast information, reproducing the broadcast information while not reproducing, but skipping over the commercial broadcast information which has not been already reproduced,**

**wherein the reproducing means reproduces the broadcast portions together with information related to each of a plurality of commercial broadcast information, said information related to each of a plurality of commercial broadcast information being one selected from the group consisting of (a still image, text, and graphic) each displayed in a line at an upper portion of the display according to the second sequence, the information related to the selected one of the plurality of commercial broadcast information is replaced with a different still image, text, or graphic after the reproduction of the selected commercial broadcast information, the different still image, text, or graphic related to the selected commercial broadcast and indicating that the selected commercial broadcast information has been already reproduced, wherein a commercial broadcast information is reproduced in any desired order by selection from the information displayed in a line at the upper portion of the display, and wherein said commercial detecting means detects said commercial broadcast information based on fluctuations in the reproduced sound level of said broadcast information.**

Referring to the Daniels reference, Daniels discloses **an apparatus comprising a controlling means for sequentially reading the series of broadcast information from the storing means and making the reproducing means reproduce the same in accordance with the supplied sequence, generating image information corresponding to the detected commercial**

**broadcast information and combining the same with the reproduced image of the series of broadcast information, and making the reproducing means reproduce the combined image information** (Fig. 17; col. 25, line 60 – col. 26, line 3).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have displayed the commercials at the same time as the program as disclosed by Daniels with the apparatus disclosed by Nakamura et al. so that the user can keep watching their program and only pause when they see a commercial in the corner that interests them. However, Nakamura et al. in view of Daniels still fail to disclose **that when the commercial designation signal is input, reading the commercial broadcast information designated by the related commercial designation signal from the storing means and making the reproduction means reproduce all the commercial broadcast information in the second sequence as supplied in the broadcast information, and, in the following reproduction of the series of broadcast information, reproducing the broadcast information while not reproducing, but skipping over the commercial broadcast information which has not been already reproduced, wherein the reproducing means reproduces the broadcast portions together with information related to each of a plurality of commercial broadcast information, said information related to each of a plurality of commercial broadcast information being one selected from the group consisting of (a still image, text, and graphic) each displayed in a**

**line at an upper portion of the display according to the second sequence, the information related to the selected one of the plurality of commercial broadcast information is replaced with a different still image, text, or graphic after the reproduction of the selected commercial broadcast information, the different still image, text, or graphic related to the selected commercial broadcast and indicating that the selected commercial broadcast information has been already reproduced, wherein a commercial broadcast information is reproduced in any desired order by selection from the information displayed in a line at the upper portion of the display, and wherein said commercial detecting means detects said commercial broadcast information based on fluctuations in the reproduced sound level of said broadcast information.**

Referring to the Baji et al. reference, Baji et al. discloses **that when the commercial designation signal is input, reading the commercial broadcast information designated by the related commercial designation signal from the storing means and making the reproduction means reproduce all the commercial broadcast information in the second sequence as supplied in the broadcast information, and, in the following reproduction of the series of broadcast information, reproducing the broadcast information while not reproducing, but skipping over the commercial broadcast information which has not been already reproduced** (col. 3, line 58 - col. 4, line 13 -



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between programs; col. 8, lines 9-10- the commercials can be arranged on the subscriber's system).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have reproduced all the commercials before the program begins as disclosed by Baji et al. with the apparatus disclosed by Nakamura et al. in view of Daniels in order to allow the user to watch their program uninterrupted and the advertisers still get to show their commercials. However, Nakamura et al. in view of Daniels in view of Baji et al. still fail to disclose **the reproducing means reproducing the broadcast portions together with information related to each of a plurality of commercial broadcast information, said information related to each of a plurality of commercial broadcast information being one selected from the group consisting of (a still image, text, and graphic) each displayed in a line at an upper portion of the display according to the second sequence, the information related to the selected one of the plurality of commercial broadcast information is replaced with a different still image, text, or graphic after the reproduction of the selected commercial broadcast information, the different still image, text, or graphic related to the selected commercial broadcast and indicating that the selected commercial broadcast information has been already reproduced, wherein a commercial broadcast information is reproduced in any desired order by selection from the information displayed in a line at the upper portion of the display, and**

**wherein said commercial detecting means detects said commercial broadcast information based on fluctuations in the reproduced sound level of said broadcast information.**

Referring to the Boylan, III et al. reference, Boylan, III et al. **discloses an apparatus wherein the reproducing means reproduces the broadcast portions together with information related to each of a plurality of commercial broadcast information, said information related to each of a plurality of commercial broadcast information being one selected from the group consisting of (a still image, text, and graphic) each displayed in a line at an upper portion of the display according to the sequence of reproduction, wherein a commercial broadcast information is reproduced in any desired order by selection from the information displayed in a line at the upper portion of the display** (Fig. 2 - displays advertisements in a line in the upper portion of the display; Figs 13 and 14 – the users can pick any commercial from the still images they want to view in any order; paragraph [0044] – text, graphic, or video information (videos are comprised of several still images); paragraphs [0070] and [0073]-[0076] - paragraph [0073] states that the advertisements can be displayed in any desired format, which means the layout of Fig. 2 can be utilized).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have displayed the commercials in a line in the upper portion of the display to allow the user to select the commercials to be

displayed in any order as disclosed by Boylan, III et al. with the information reproducing apparatus as disclosed by Nakamura et al. in view of Daniels in view of Baji et al. in order to allow the user to choose commercials at their convenience and in any order thereby giving more control to the user over the commercials they are viewing. However, Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. fail to disclose **the information related to the selected one of the plurality of commercial broadcast information is replaced with a different still image, text, or graphic after the reproduction of the selected commercial broadcast information, the different still image, text, or graphic related to the selected commercial broadcast and indicating that the selected commercial broadcast information has been already reproduced, and wherein said commercial detecting means detects said commercial broadcast information based on fluctuations in the reproduced sound level of said broadcast information.**

Referring to the Dustin et al. reference, Dustin et al. discloses **an apparatus wherein the information related to the selected one of the plurality of commercial broadcast information is replaced with a different still image, text, or graphic after the reproduction of the selected commercial broadcast information, the different still image, text, or graphic related to the selected commercial broadcast indicating that the selected commercial broadcast information has been already reproduced** (col. 6, lines 25-33 – after the ad is displayed for a period of time that ad is replaced by a

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new ad; col. 8, lines 26-36 - the storage area where the graphics related to the commercials are streamed).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have replaced a commercial that has been viewed on the screen with a new commercial that has not been viewed while storing an image related to the commercial that was just viewed for future reference as disclosed by Dustin et al. in the information reproducing apparatus as disclosed by Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in order to guarantee that all the commercials are being viewed and to allow the user to return to the commercial as desired. However, Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. still fail to disclose **said commercial detecting means detects said commercial broadcast information based on fluctuations in the reproduced sound level of said broadcast information.**

Referring to the Harville reference, Harville discloses **an apparatus wherein said commercial detecting means detects said commercial broadcast information based on fluctuations in the reproduced sound level of said broadcast information** (col. 9, lines 17-22 – significant volume changes).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized any method of detecting commercial broadcasts in the information reproducing apparatus disclosed by

Harville in the apparatus disclosed by Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. in order to properly detect a commercial broadcast.

Regarding claim **3**, Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. in view of Harville discloses all the limitations as previously discussed with respect to claim 8 including that **the controlling means sequentially reads said detected commercial broadcast information from said storing means in accordance with a sequence by which said commercial broadcast information was supplied** (Nakamura et al: Fig. 4; col. 14, lines 12-20).

Regarding claim **4**, Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. in view of Harville discloses all the limitations as previously discussed with respect to claim 8 including that **the controlling means sequentially reads commercial broadcast information specified by an address of a head part stored in the storing means and a data length identification information from designated in the storing means** (Nakamura et al: Fig. 4; col. 14, lines 12-20).

Regarding claim **9**, Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. in view of Harville discloses all the limitations as previously discussed with respect to claim 8 including that **the controlling means suspends reproduction of said series of broadcast information and makes the reproducing means reproduce designated**

**commercial broadcast information when said commercial designation signal is input** (Nakamura et al.: Fig. 5; col. 14, line 25 – col. 15, line 8).

Regarding claim **10**, Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. in view of Harville discloses all the limitations as previously discussed with respect to claim 8, including that **the controlling means combines a still image of a reproduced image of the detected commercial broadcast information and a reproduced image of the series of broadcast information and makes the reproducing means reproduce the same** (Boylan, III et al.: Fig. 13).

Regarding claim **11**, Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. in view of Harville discloses all the limitations as previously discussed with respect to claims 8 and 10, including that **the controlling means erases the still image of said commercial broadcast information from a display area of said reproducing means in the subsequent reproduction of the series of broadcast information when commercial broadcast information has been reproduced in accordance with said commercial designation signal** (Dustin et al.: col. 6, lines 25-33 - after an ad is displayed for a period of time that ad is replaced (erased) and another ad is shown).

Regarding claim **12**, Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. in view of Harville discloses all the limitations as previously discussed with respect to claims 8 and 10

including **the controlling means changes the still image of the commercial broadcast information to a predetermined image showing the commercial broadcast information finished being reproduced in the subsequent reproduction of the series of broadcast information when commercial broadcast information has been reproduced in accordance with the commercial designation signal** (Boylan, III et al.: paragraphs [0070] and [0073]-[0076] – after watching the commercial an indication to the user is given as to whether to buy the product, record the program, or etc., therefore letting the user know that the commercial is finished).

Regarding claim **13**, Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. in view of Harville discloses all the limitations as previously discussed with respect to claim 8 including that **the controlling means sequentially reads commercial broadcast information specified by an address of a head part stored in the storing means and a data length identification information from designated in the storing means** (Nakamura et al.: Fig. 4; col. 14, lines 12-20).

Regarding claim **15**, Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. in view of Harville discloses all the limitations as previously discussed with respect to claim 8, including that **the commercial detecting means detects scene changes where a reproduced image of said broadcast information changes discontinuously and detects said commercial broadcast information based on a time**

**interval at which said detected scene changes occur in said reproduced image** (Harville.: col. 7, lines 33-47 – scene breaks and/or fades are monitored over a period of time).

Regarding claims **17** and **19**, these are method claims corresponding to the apparatus claims 8 and 3. Therefore, claims 17 and 19 are analyzed and rejected as previously discussed with respect to claims 8 and 3. The apparatus disclosed in claims 8 and 3 perform the method disclosed in claims 17 and 19.

Regarding claim **21**, this is a method claim corresponding to the apparatus claim 15. Therefore, claim 21 is analyzed and rejected as previously discussed with respect to claims 15.

Regarding claims **23** and **24**, these are method claims corresponding to the apparatus claims 8 and 9. Therefore, claims 23 and 24 are analyzed and rejected as previously discussed with respect to claims 8 and 9. The apparatus disclosed in claims 8 and 9 perform the method disclosed in claims 23 and 24.

Regarding claims **25-27**, these are method claims corresponding to the apparatus claims 10-12. Therefore, claims 25-27 are analyzed and rejected as previously discussed with respect to claims 10-12. The apparatus disclosed in claims 10-12 perform the method disclosed in claims 25-27.

Regarding claim **29**, this is a method claim corresponding to the apparatus claim 15. Therefore, claim 29 is analyzed and rejected as previously discussed with respect to claim 15.



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6. Claims 2 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. in view of Harville as applied to claims 8 and 17 above, and further in view of Barritz et al. (U.S. Patent Application Publication 2002/0019769).

Regarding claim **2**, Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. in view of Harville discloses all the limitations as previously discussed with respect to claim 8, but fails to disclose that **the controlling means generates a viewing confirmation message at least one time, makes the reproducing means reproduce it, and suspends a read operation of the broadcast information from the storing means at the time of reproduction of the commercial broadcast information and restarts the read operation of said broadcast information when a response signal with respect to the related viewing confirmation message is detected.**

Referring to the Barritz et al., Barritz et al. discloses **an information reproducing apparatus disclosing a viewing confirmation message at least one time, makes the reproducing means reproduce it, and suspends a read operation of the broadcast information from the storing means at the time of reproduction of the commercial broadcast information and restarts the read operation of said broadcast information when a response signal with respect to the related viewing confirmation message is detected** (paragraph [0117]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the message system as disclosed by Barritz et al. with the information reproducing apparatus disclosed by Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. in view of Harville in order to determine viewer presence during commercials.

Regarding claim **18**, this is a method claim corresponding to the apparatus claim 2. Therefore, claim 18 is analyzed and rejected as previously discussed with respect to claim 2.

7. Claims 5, 14, 20, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. in view of Harville as applied to claims 8, 17, and 23 above, and further in view of Levy (U.S. Patent Application Publication 2003/0192060)

Regarding claim **5**, Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. in view of Harville discloses all the limitations as previously discussed with respect to claim 8, but fails to disclose that **the commercial detecting means detects the commercial broadcast information based on electronic watermark information included in image data of the broadcast information.**

Referring to the Levy reference, Levy discloses **detecting commercial broadcast information based on electronic watermark information** (paragraph [0035]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have detected commercial broadcasts based on electronic watermark information in the information reproducing apparatus disclosed by Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. in view of Harville to provide the apparatus with a better quality commercial detector.

Regarding claim **14**, Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. in view of Harville discloses all the limitations as previously discussed with respect to claim 8, but fails to disclose that **the commercial detecting means detects the commercial broadcast information based on electronic watermark information included in image data of the broadcast information.**

Referring to the Levy reference, Levy discloses **detecting commercial broadcast information based on electronic watermark information** (paragraph [0035]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have detected commercial broadcasts based on electronic watermark information in the information reproducing apparatus disclosed by Nakamura et al. in view of Daniels in view of Baji et al. in view of

Boylan, III et al. in view of Dustin et al. in view of Harville to provide the apparatus with a better quality commercial detector.

Regarding claim **20**, this is a method claim corresponding to the apparatus claim 5. Therefore, claim 20 is analyzed and rejected as previously discussed with respect to claim 5.

Regarding claim **28**, this is a method claim corresponding to the apparatus claim 14. Therefore, claim 28 is analyzed and rejected as previously discussed with respect to claim 14.

8. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura (U.S. Patent 7,013,477) in view of Baji et al. (U.S. Patent 5,838,314) in view of Boylan, III et al. (U.S. Patent Application Publication 2002/0166120) in view of Dustin et al. (U.S. Patent Application Publication 2005/0108095) in view of Harville (U.S. Patent 6,993,245).

Regarding claim **32**, Nakamura et al. discloses **an information reproducing method comprising: receiving sequential broadcast information having a plurality of broadcast portions and a plurality of broadcast commercial portions, the plurality of broadcast commercial portions in a broadcast sequence and separating the broadcast portions** (Fig. 2; col. 12, lines 17-35); **storing the sequential broadcast information in the sequence as received** (col. 12, lines 17-35; col. 14, lines 12-20); **and reproducing broadcast information stored in the storing means** (col. 14, lines 21-25). However, Nakamura et al. fails disclose **reproducing, in response**

to a request for reproduction of the sequential broadcast information, all the plurality of broadcast commercial portions in the broadcast sequence; and subsequently reproducing the stored sequential broadcast information broadcast portions in the received sequence by reproducing the broadcast portions and not reproducing the broadcast commercial portions, and wherein the reproducing means reproducing the broadcast portions together with information related to each of a plurality of commercial broadcast information, said information related to each of a plurality of commercial broadcast information being one selected from the group consisting of (a still image, text, and graphic) displayed together in a line at an upper portion of the display according to the second sequence, the information related to the selected one of the plurality of commercial broadcast information is replaced with a different still image, text, or graphic after the reproduction of the selected commercial broadcast information, the different still image, text, or graphic related to the selected commercial broadcast indicating that the selected commercial broadcast information has been already reproduced, wherein a commercial broadcast information is reproduced in any desired order by selection from the information displayed in a line at the upper portion of the display, and wherein detecting said commercial broadcast information is based on fluctuations in the reproduced sound level of said broadcast information.

Referring to the Baji et al. reference, Baji et al. discloses **an information reproducing method comprising reproducing, in response to a request for reproduction of the sequential broadcast information, all the plurality of broadcast commercial portions in the broadcast sequence; and subsequently reproducing the stored sequential broadcast information broadcast portions in the received sequence by reproducing the broadcast portions and not reproducing the broadcast commercial portions** (col. 3, line 58 - col. 4, line 13 - between programs; col. 8, lines 9-10- the commercials can be arranged on the subscriber's system).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have reproduced all the commercials before the program begins as disclosed by Baji et al. with the apparatus disclosed by Nakamura et al. in order to allow the user to watch their program uninterrupted and the advertisers still get to show their commercials. However, Nakamura et al. in view of Baji et al. still fail to **disclose the reproducing means reproducing the broadcast portions together with information related to each of a plurality of commercial broadcast information, said information related to each of a plurality of commercial broadcast information being one selected from the group consisting of (a still image, text, and graphic) displayed together in a line at an upper portion of the display according to the second sequence, the information related to the selected one of the plurality of commercial broadcast information is replaced with a different**

**still image, text, or graphic after the reproduction of the selected commercial broadcast information, the different still image, text, or graphic related to the selected commercial broadcast indicating that the selected commercial broadcast information has been already reproduced, wherein a commercial broadcast information is reproduced in any desired order by selection from the information displayed in a line at the upper portion of the display, and wherein detecting said commercial broadcast information is based on fluctuations in the reproduced sound level of said broadcast information.**

Referring to the Boylan, III et al. reference, Boylan, III et al. **discloses an apparatus wherein the reproducing means reproduces the broadcast portions together with information related to each of a plurality of commercial broadcast information, said information related to each of a plurality of commercial broadcast information being one selected from the group consisting of (a still image, text, and graphic) displayed together in a line at an upper portion of the display according to the sequence of reproduction, wherein a commercial broadcast information is reproduced in any desired order by selection from the information displayed in a line at the upper portion of the display** (Fig. 2 - displays advertisements in a line in the upper portion of the display; Figs 13 and 14 – the users can pick any commercial from the still images they want to view in any order; paragraph [0044] – text, graphic, or video information (videos are comprised of several still

images); paragraphs [0070] and [0073]-[0076] - paragraph [0073] states that the advertisements can be displayed in any desired format, which means the layout of Fig. 2 can be utilized).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have displayed the commercials in a line in the upper portion of the display to allow the user to select the commercials to be displayed in any order as disclosed by Boylan, III et al. with the information reproducing apparatus as disclosed by Nakamura et al. in view of Baji et al. in order to allow the user to choose commercials at their convenience and in any order thereby giving more control to the user over the commercials they are viewing. However, Nakamura et al. in view of Baji et al. in view of Boylan, III et al. fail to disclose **the information related to the selected one of the plurality of commercial broadcast information is replaced with a different still image, text, or graphic after the reproduction of the selected commercial broadcast information, the different still image, text, or graphic related to the selected commercial broadcast indicating that the selected commercial broadcast information has been already reproduced, and wherein detecting said commercial broadcast information is based on fluctuations in the reproduced sound level of said broadcast information.**

Referring to the Dustin et al. reference, Dustin et al. discloses an apparatus wherein **the information related to the selected one of the plurality of commercial broadcast information is replaced with a different still image,**



**text, or graphic related to the selected commercial broadcast indicating that the selected commercial broadcast information has been already reproduced** (col. 6, lines 25-33 – after the ad is displayed for a period of time that ad is replaced by a new ad; col. 8, lines 26-36 - the storage area where the graphics related to the commercials are streamed).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have replaced a commercial that has been viewed on the screen with a new commercial that has not been viewed while storing an image related to the commercial that was just viewed for future reference as disclosed by Dustin et al. in the information reproducing apparatus as disclosed by Nakamura et al. in view of Baji et al. in view of Boylan, III et al. in order to guarantee that all the commercials are being viewed and to allow the user to return to the commercial as desired. However, Nakamura et al. in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. still fail to disclose **wherein detecting said commercial broadcast information is based on fluctuations in the reproduced sound level of said broadcast information.**

Referring to the Harville reference, Harville discloses **an apparatus wherein detecting said commercial broadcast information is based on fluctuations in the reproduced sound level of said broadcast information** (col. 9, lines 17-22 – significant volume changes).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized any method of detecting

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commercial broadcasts in the information reproducing apparatus disclosed by Harville in the apparatus disclosed by Nakamura et al. in view of Baji et al. in view of Boylan, III et al. in view of Dustin et al. in order to properly detect a commercial broadcast.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HEATHER JONES whose telephone number is (571)272-7368. The examiner can normally be reached on Mon. - Thurs.: 7:00 am - 4:30 pm, and every other Fri.: 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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